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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES EDWARD STOKES,

Defendant and Appellant.

H034351

(Santa Clara County  
Super. Ct. No. 121409)

Defendant James Edward Stokes was charged by information filed May 10, 1988, with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1);<sup>1</sup> count 1), forcible rape (§ 261, subd. (a)(2); count 2), and forcible lewd conduct on a child under 14 (§ 288, subd. (b); count 3.) The information also included great bodily injury (§ 12022.8) and kidnapping (§ 667.8, subd. (a)) enhancement allegations as to counts 2 and 3. Defendant pleaded no contest to the charges and admitted the enhancement allegations. On July 10, 1989, the trial court sentenced him to 17 years in state prison.

Defendant was admitted to Atascadero State Hospital (Atascadero) in May 1997, as a mentally disordered offender (MDO) pursuant to section 2962, for involuntary treatment as a condition of parole with a discharge (end of parole) date of May 14, 2000.

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<sup>1</sup> All further statutory references are to the Penal Code.

On January 4, 2000, the district attorney filed a petition to compel defendant's involuntary treatment as an MDO at Atascadero for one year pursuant to section 2970. On May 4, 2000, defendant admitted the allegations in the petition. The trial court extended defendant's commitment for one year and ordered that defendant be accepted for outpatient treatment in a transitional program. The court revoked defendant's outpatient status on September 22, 2000, and defendant was committed to Patton State Hospital (Patton) until May 14, 2001.

Defendant's commitment for involuntary treatment as an MDO pursuant to section 2970 was extended for one year again on March 7, 2001, April 5, 2002, and June 27, 2003. On each of those dates, defendant admitted the allegations in a petition filed by the district attorney to compel the extension of his commitment. Following a hearing in May 2004 on a new petition, the court extended defendant's commitment to May 14, 2005. This court affirmed the May 7, 2004 commitment order on appeal. (*People v. Stokes* (March 22, 2005, H027462) [nonpub. opn..])

Defendant's commitment for involuntary treatment was extended for one year again on March 11, 2005, December 2, 2005, May 11, 2007, and March 7, 2008. Prior to each extension order, the district attorney had filed a petition to extend the involuntary treatment and defendant had filed a waiver of appearance and an acceptance of the extension. On December 2, 2008, the district attorney filed another petition to extend defendant's involuntary treatment at Patton for one year pursuant to section 2970. A court trial was held on the petition on May 27, 2009.

Dr. Jason Rowden, a staff psychologist at Patton, testified that defendant has been on his unit at Patton since October 2008, and that he is part of defendant's treatment team.<sup>2</sup> He has not met with defendant one-on-one, but he has observed defendant and has

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<sup>2</sup> Dr. Rowden testified that he had received his doctorate degree in 2008, and that he was not yet licensed. He had passed one of two tests and had completed around 2,750 of the required 3,000 hours, and he was working under the supervision of another

reviewed defendant's criminal case file, psychological records, chart notes, documentation of self-reports of symptoms, and testing assessments. In his opinion, defendant has a mental disorder (schizophrenia, both paranoid and differentiated types, and pedophilia); the disorder substantially impairs defendant's perception of reality, thought processes, and judgment; the disorder requires continuing medication but defendant has refused to take his medication at least 11 times in the past four months; the disorder is not in remission; and because of the disorder defendant represents a substantial danger of physical harm to others.

Defendant testified that he wishes to leave Patton. He does not have any auditory hallucinations; he previously held a horticulture job at Patton for four years; he has attended and participated in all of his various group classes, including sex offender treatment program classes; and he takes his medication every day and would continue to do so if he were released. He acknowledged the crime he committed in 1987, "[e]xcept there was no rape," and testified that he has had no inappropriate physical sexual encounters since that time. On cross-examination he testified that he "never child molesting no one," and that he "was only defending [him]self" when he hit the man with a brick who tried to keep him from running away. He also testified that he had "been trying to tell the staff that [he] did not need no medication, only if the law says [he] was supposed to take medication [will he] take the medication."

The court found that the People met their burden of proving the allegations in the petition. "I think that just based on [defendant's] testimony it is obviously an issue of credibility and based on the testimony of two witnesses [I] found the doctor's testimony more compelling and more believable." The court therefore ordered defendant's commitment extended for another year, until May 14, 2010.

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psychologist. Defendant objected to Dr. Rowden being qualified as an expert, but the court overruled the objection.

Defendant filed a timely notice of appeal and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief which states the case and facts but which raises no issues. We notified defendant of his right to submit written argument in his own behalf within 30 days. That period has elapsed and we have received no written argument from defendant. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the entire record and have concluded that there is no arguable issue on appeal.

The order of May 27, 2009, extending defendant's commitment pursuant to section 2970 is affirmed.

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BAMATTRE-MANOUKIAN, ACTING P.J.

WE CONCUR:

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McADAMS, J.

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DUFFY, J.